

REMARKS

In the **non-final** Office Action mailed January 25, 2010 the Office noted that claims 1-21 were pending and rejected claims 1-20 and withdrew claim 21. In this amendment claims 1-21 have been amended, no claims have been canceled, and, thus, in view of the foregoing claims 1-21 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections and objections are traversed below.

ELECTION/RESTRICTION

In the Office Action, the Office asserts that lack of unity of invention exists between claim 21 and claims 1-20 and therefore claim 21 is withdrawn. The Applicants submit that claim 21 is method for producing the flexible plastic tube as in claims 1-20 and that no further search burden is placed on examination of the claims. The Applicants respectfully request that the claim be examined.

REJECTIONS under 35 U.S.C. § 103

Claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being obvious over Dronzek, WO 93/09925 in view of Hakansson, U.S. Patent Publication No. 2002/0139707 in further view of Sloan, U.S. Patent No. 5,850,940 or Kieras, U.S. Patent No. 6,588,178. The Applicants respectfully disagree and traverse the rejection

with an argument.

Dronzek discusses rolls suitable for printing and forming at high rates of production of blown or injection in-mold labeled plastic container.

Hakansson discusses a dispenser for keeping and dispensing earplugs.

Sloan discusses a container shaped with an animal head that can dispense a first product and a second product.

Kieras discusses squeezable plastic tubes which have a flip-top closure cap with a finger recess are provided by a method which aligns indicia on labeling of the tube with the finger recess.

Claim 1 has been amended to recite "A thin-walled, **flexible** plastic tube having an axial direction and a radial direction, the **flexible** plastic tube being manufactured by injection molding and comprising a tube body with a tube shoulder with an emptying opening at a first end and **a sealable** end closure at a second end, the tube body having a wall thickness of 0.3-1.2 mm, **wherein the flexible plastic tube is suitable for allowing a tube content comprising soft cheese or toothpaste to be squeezed out through the emptying opening when the closure has been sealed**, the **flexible** plastic tube comprises a label applied simultaneously with the injection molding, the label comprising a plastic film with a tensile strength in the axial direction of the **flexible** plastic tube which is at least 100 N/mm<sup>2</sup> measured

according to DIN ISO 527-1/ -3, an elongation at break which is at most 70 %measured according to DIN ISO 527-1/ -3, and a thickness of at most 75 µm, **and the plastic film has a greater tensile strength and lower tensile yield limit in an orientation direction than in a direction at right angles to the orientation direction, and wherein the plastic film is oriented such that the orientation direction coincides with the axial direction of the flexible plastic tube.**" (Emphasis added)

Support for the amendment may be found, for example, in Figs. 1 and 2 and page 1, lines 13-14 and page 3, lines 15-17 and page 5, line 28 through page 6, line 2 of the Specification. The Applicants submit that no new matter is believed to have been added by the amendment of claim 1. Claims 13 and 22 have been amended in a manner consistent with claim 1.

It is respectfully submitted that the prior art of record fails to disclose and the plastic film has a greater tensile strength and lower tensile yield limit in an orientation direction than in a direction at right angles to the orientation direction, and wherein the plastic film is oriented such that the orientation direction coincides with the axial direction of the flexible plastic tube.

Further, the prior art of record fails to disclose a sealable end closure at a second end, the tube body having a wall thickness of 0.3-1.2 mm, wherein the flexible plastic tube is suitable for allowing a tube content comprising soft cheese or

toothpaste to be squeezed out through the emptying opening when the closure has been sealed.

For at least the reasons discussed above, Droznek, Hakansson, Sloan and Kieras, taken alone or in combination, fail to render obvious the features of claims 1, 13 and 21 and the claims dependent therefrom.

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. § 103. It is also submitted that claims 1-21 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/James J. Livingston, Jr./  
James J. Livingston, Jr.  
Reg.No. 55,394  
209 Madison St, Suite 500  
Alexandria, VA 22314  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

JJL/fb